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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/987,603

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Nobukatsu Ashida

AKI-C169

7381

7590

08/06/2003

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EXAMINER

JOHNSTONE, ADRIENNE C

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/987,603

Applicant(s)

ASHIDA ET AL.

Examiner

Adrienne C. Johnstone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/303,498.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/303,498, filed on April 30,

### 1999. *Drawings*

2. Figures 10-16 should be designated by a legend such as --Prior Art -- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to for the reasons noted in paragraph 2 above and for the reasons set forth in the Notice of Draftperson's Patent Drawing Review (PTO-948) attached to parent application Paper Number 7 (mailed March 22, 2001). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

4. Claim 13 is objected to because of the following informalities: in line 3 to correct a typographical error "at least one the seating area" should be changed to -- at least one of the seating area -- . Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 13-15 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The step of press-bonding the skin material to the cushion material *only*

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*within the seating area* critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See the specification p. 8 lines 10-13 and p. 23 lines 9-16.

7. Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The step of covering over the cushioning material with a water proof film *and attaching the water proof film to the cushioning material* and then cutting off the water proof film along the concave groove so that no water proof film remains within the seating area critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See the specification p. 13 lines 12 and 13 and p. 21 lines 6-10.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: the step of *completing the seat by placing the press-bonded cushioning material on a support and securing a peripheral edge of the skin material to the support* (specification p. 21 lines 1-5 and 14-17: note that to provide antecedent basis in the specification for this language p. 21 line 4 should be amended such that before "a frame" is inserted -- a support such as -- ).

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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11. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gill (5,238,513) or, alternatively, Japanese Patent Application 5-131553 A.

See Gill col. 4 line 4 - col. 6 line 4: seat bun 24 cushioning material) with surface of predetermined shape 25 corresponding to the desired final cushion surface contour (seating area) surrounded by a peripheral ridge (see Figures 2, 3, 6, and 8); adhesive 42 sprayed on the surface of predetermined shape 25 (seating area); seat cover member 40 (skin material) vacuum formed into the three-dimensional shape of the forming tool 26; adhesive laden surface of predetermined shape 25 (seating area) compressed against seat cover member 40 (skin material); vehicle seat cushion assembled in its final form 50 in Figure 8 with the peripheral edge of seat cover member 40 (skin material) secured to the seat by for example sewing the edges together or to two halves of a zipper.

Alternatively, see JP '553 translation paragraphs 0008-0021: cushion pad P having seating surface 11 sprayed with adhesive A, shown with peripheral ridge in Figures 1 and 2; skin material H vacuum formed into the three-dimensional shape of the forming tool 51; cushion pad P press-bonded to skin material H; cushion pad P with skin material H placed on bottom plate B, peripheral edges of skin material H secured to bottom plate B to complete the seat.

*Allowable Subject Matter*

12. Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second second paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: It is well known to provide vehicle seat cushioning materials with an attached water proof film in order to protect the cushion from water damage, as evidenced by applicants (specification p. 3 line 6 - p. 4 line 7) and Schiller et al. (5,972,149: col. 4 line 62 - col. 5 line 10 and col. 6 lines 52-

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64) for example, however Schiller teaches that the water proof film improves bonding between the cushion and cover materials and therefore teaches away from removing the water proof film in the seating area. The prior art of record fails to disclose or suggest applicants' method of manufacturing a vehicle seat, including the particular step of covering over the cushioning material with a water proof film and attaching the water proof film to the cushioning material and then cutting off the water proof film along the concave groove so that no water proof film remains within the seating area, in the claimed environment.

*Conclusion*

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrienne C. Johnstone whose telephone number is (703)308-2059. The examiner can normally be reached on Monday-Friday, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703)308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9311 for regular communications and (703)872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Adrienne C. Johnstone  
Primary Examiner  
Art Unit 1733

Adrienne Johnstone  
August 4, 2003

